

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION

ADAM DERBY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2:06CV00045 AGF
	)	
DOUG WORSHAM, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiff's motion for appointment of counsel. Plaintiff, a Missouri prisoner, brings this action pro se under 42 U.S.C. § 1983, against prison officials, Doug Worsham, Supervisor of Religious/Spiritual Programming for the Missouri Department of Corrections; and Tommy Barnhart, Chaplain of Northeast Correctional Center where Plaintiff is incarcerated. He claims that Defendants seized religious items, which were previously approved by Defendant Barnhart, thereby interfering with Plaintiff's constitutional right to practice his religion. Plaintiff seeks damages and injunctive relief.

There is no constitutional right for a pro se plaintiff to have counsel appointed in a civil case, although a district court has discretion to appoint an attorney to handle such a case when necessary. Phillips v. Jasper County Jail, 437 F.3d. 791, 794 (8th Cir. 2006); Davis v. Scott, 94 F.2d 444, 447 (8th Cir. 1996). Among the factors a court should

consider in making this determination are the legal and factual complexity of the case, the ability of the plaintiff to investigate the facts and present his claim, and to what degree the plaintiff and the court would benefit from such an appointment. Phillips, 437 F.3d. 791 (8th Cir. 2006); Edgington v. Mo. Dep't of Corr., 52 F.3d 777, 780 (8th Cir. 1995).

Upon review of the file and the relevant factors, the Court finds that appointment of counsel is unnecessary at this time. If Plaintiff seeks the appointment of counsel at a later stage in the proceedings, he will be required to provide the Court with a sworn statement itemizing what efforts he has made to obtain legal counsel, providing the names of attorneys with whom he has discussed representation and the dates and results of such discussions.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's motion for appointment of counsel [Doc. # 4] is **DENIED** without prejudice.

  
AUDREY G. FLEISSIG  
UNITED STATES MAGISTRATE JUDGE

Dated this 9th day of November, 2006.